

Attendees:

Ethan Swift, Chris Rottler - VTDEC
Gianna Petito, Holden Sparacino - NRCC/VACD
Jared Carpenter- LCC
Zach Porter- CLF
Peter Gregory - VAPDA
Lyn Munno - WUV
Amy Marcellis - GMWEA
Skype: Mary Russ, Christopher Koliba, Charles Baker, Dan Albrecht

Agenda:

Act 76 Stakeholder Advisory Group (AG), 12/17/2019
Limestone Conference Room, National Life

1. Introductions
2. Review of Notes from 12/3
3. Minutes/recap of 12/3 meeting
4. January meeting dates
5. Review of Draft RFP

Notes from meeting:**Introductions**

Ethan Swift and Chris Rottler welcomed groups both in the room and on skype.

Review of Notes from 12/3

Notes from 12/3 weren't sent around. Will send copy with 12/17 notes.

Minutes/recap of 12/3 meeting

Chris reviewed the last meeting regarding RFP guidance and governance. Will return to governance talk in January. An issue was raised by a couple of the AG members that some haven't had time to fully review the RFP and get edits from other members of their group/ respective boards. AG members will be sending language suggestions and edits by Friday 12/20/2019.

January meeting dates

Next meeting is January 10th, 2020. Chris and Ethan proposed dates to group for mid-January meeting time. January 24th, 2020 was selected and an earlier time of 1:00 pm – 3:30 pm was requested.

Review of Draft RFP

1. Introduction and Purpose
 - Chris and Ethan suggested that the AG walk through the draft RFP
 - Discussion of draft timeline
 - A couple of AG members suggested that the Jan 20- Mar 13 timeline is too restrictive, and requested 3-4 months for applicants to prepare and have these important conversations with partners, educate their respective board(s), develop a network for BWQC communications, as well as bigger organizational changes
 - Chris and Ethan suggested that AG be mindful of other grant timing and constraints of several applications occurring at the same time period

- CR indicated that Jan 20 was not a hard release date, but rather an opportunity to provide a couple weeks of advance public review and comment prior to the RFP release. This will allow for input/ comments and minor revisions to be considered
- Discussion that introductory paragraph needing to be fleshed out since it doesn't explain the roles of BWQC and CWSP and doesn't include sideboards. A point was made that this lack of clarity could be daunting for potential applicants to read and not have a sense of who is involved.
 - CR and ES indicated that this was more of a guidance document subject
 - AG requested more clarity from DEC regarding the process, timeframe, and partner involvement, especially with respect to for CWSP receiving technical guidance and approval. AG members brought up issues that relate to project identification and prioritization, which are also subject matters of the governance model and methodologies (i.e., more clarity on how a project moves through the system and at what stage does DEC need to give approval).
 - methodologies regarding project identification and project development will take some further work of the AG to draft/ develop relevant steps.
 - Discussion around why RFP must be released before guidance/rules document is more fleshed out, cart before the horse, can order be revised/ extended?
 - Timeline for CWSP selection must conform with Act 76
 - Point made that organizations may not be willing to stand up and be CWSP without the information that will come in the guidance/rules section. Request to put more information of this like into the RFP or wait till guidance is completed.
 - in order to meet time frame this is the process; RFP is not an agreement more like an RFQ (qualifications and experience). CWSP selection process will proceed concurrently with development of the rules/governance materials. Understand that this process is unique, however this isn't a typical RFP that DEC develops: more esoteric and defined by the nature and type of process envisioned by the Act, and not a typical construct
 - Introduction paragraphs don't include the language changes of last meeting, need to emphasize the weight the BWQC has on project approval in regard to CWSPs. CR and ES emphasized that the CWSP selection RFP is not the means to articulate these roles.
 - First sentence remove "...project implementation..." and include the word smith to provide clarity on what a CWSP can do. Allowed to implement but not required to implement. Duly noted.
 - DEC can't list the entire Act 76 in the RFP, CWSP applicants must have knowledge of Act 76 and it is implied that interested entities will already be somewhat familiar with the Act and be able to demonstrate that understanding.
 - concern arose about language not being inclusive enough which might result in no organization raising (their) hand to be a CWSP
 - similar concern that a "C" level student type of organizations raising hand and resulting concern over the subsequent management of large sums of money from the state
 - AG member perspective that the RFP Intention/language may be difficult to interpret and therefore may cause qualified organizations to otherwise disqualify themselves. Encourage thinking from target audience perspective and adjusting language
 - Second paragraph: discussion around thinking it will be 6+1 basins first and then the rest of the basins. Some AG members expressed concern that issuing the CWSP selection for all 15 basins was not the intent (as they interpreted the Act).
 - 15 basins in one RFP to create efficiency and equity across basins
 - Change Phosphorous to pollutant, don't want to do an RFP for each pollutant

- 2021 have CWSP for the 6+1 basins, then others optional at that point
- target setting can occur even outside of the TMDLs
- CWSPs in the other 8 basins will still be eligible to receive the “Enhancement” funding (Tier 2) despite not be immediately eligible to receive the “Restoration” formula grants.
- Term Length discussion: Two model approaches were considered; Model 1 for a specific “term limit” (i.e., every 4/5 years the CWSP would be evaluated and progress made towards meeting targets would be reviewed and would be “re designated” upon successful completion of the audit, compliance, and review process.. Model 2 contemplates that CWSPs would only be de-designated based on poor performance and/or bad behavior. Discussion ensued regarding:
 - CWSP term length
 - Ability for CWSP to proceed through a probationary period, by which the CWSP could “opt-out” if it is determined that the entity does not want to proceed.
 - Small organizations have high rate of change with personnel changes, wish to avoid the “large ship can’t turn around” and enable better candidates to take place of lower quality CWSP
 - Need to create a transparent and smooth process for this transition ability
- Discussion around the sense that CWSPs would be required to serve “In-Perpetuity”, response was that no one is forced to be CWSP and no such thing as indentured servitude
 - always able to open the RFP up again and have an interim CWSP for a basin for a short period of time

2. Scope of Work

- include language on allowing a written policy. If you have a written policy (i.e. personnel, conflict of interest, procurement policies) please provide, otherwise write a description of your policy to create equity between organizations that don’t have a written policy.
 - a. Responsibilities of a provider (matter of the guidance)
 - b. Program delivery (ditto)
 - c. BWQC (ditto)
 - Take statutory language and place into scope of work
 - Request to have BWQC written out in this section
 - d. Payment (contractual obligations TBD)
 - Request to include a link to DEC funding policy in this section
 - Will DEC revise (as appropriate) the annual funding policy to incorporate the emerging work of the CWSP
 - a. DEC revises the CW funding policy annually at the beginning of fiscal year
 - b. Discussion on including clarity between BWQC and CWSP and how funding will be used. CR and ES indicated that the CWSP selection RFP is not the mechanism to do this.
 - Discussion around including language around cost sharing with both grantee and subgrantee, 15% is the total amount available (i.e., the CWSP nor the sub-contractor will not be receiving an additional 15% for each subgrantee)
 - a. Cover this in rule and guidance (this is not a subject of the CWSP selection rule)?
 - A scenario was put forth with breakdown of money and how much support this will provide CWSP and BWQC. Concern was raised over the rough projections that \$500,000 won’t be able to cover the logistics of fully funded projects and what money is left to find/design/develop

projects. The scenario presented was showing how fully staffing and funding of each BWQC for all 15 basins could reach the ceiling of available funding earmarked for participation through the Act.

- Lots of projects already determined and prioritized and assistance will be given in the form of management and analytical tools to help inform the identification, prioritization, and design of projects and further development towards implementation
- AG member point was made that the allocation of funding related outcome hasn't been fully discussed yet. CR and ES pointed to the process that has yet to commence on this point.

3. Funding and Method of Payment

- Conversation around payment of projects and associated liability that a CWSP will have in order to show progress made towards targets
- Not an unfunded mandate and DEC won't require projects that aren't financially supported

4. Project Timeline – discussion of how some projects may take a couple of years to reach the implementation phase

5. Procurement

- Discussion on language and change the word procurement
- Question arose around language being included if organization is sub granting versus hiring

6. Deadlines and Content of Proposals

- Request that “Applicants may be asked to interview...” be moved to introduction
- Discussion around the possibility of a webinar be available to applying entities and create equity across the basins to comment/ask questions and receive answers in real time
 - o CR indicated that the Logistics of a forum may be too subjective to provide needed equity from all interested parties, due to prospective variable ability to participate. The reason is that responses may need some thought. For this reason a written Q&A response document that all interested parties will have access to will be more equitable.
- “Letters of reference/support from at least three entities” bullet was under discussion and requested the words “encourage a diversity of entities “to be included in the language.
 - o Would like to see a broad base of support from varying entities within a basin not all one type and have more weight to applicants with a diverse set.
 - o The bare minimum is 3 letters (of support) and during selection process the judgement of support/reference letters will be flexible based on which basin/ number of partners. Desire expressed for necessary time for competing(?) entities to interact and determine who would be best served in each role (i.e., the quality of an applicant will be obvious; this isn't necessary to micromanage).

7. Selection Criteria

- This section was considered a strong part of this RFP and an accurate reflection of the conversation that took place during the 12/3 meeting.
- Discussion arose around Operations plan/vision portion of the selection criteria with a request to emphasize the importance of this section. Ability of applicants to collaborate and work with the inertia of this Act and create a robust vision plan.
- Important section to determine the quality of candidates that are up for consideration.
- Conversation around the use of OR versus AND in the section on letters of reference and advocate for OR?
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8. Eligibility

- Question was raised regarding eligibility being mixed with requirements and request for clarity on this section.
- Second paragraph "A current Vermont State employee..." is standard DEC boiler plate and cannot be changed.
- First paragraph was included and left purposefully vague to ensure the need to prove eligibility

9. Reservation of State's Rights

10. Insurance

- Concerns over risk statement not being included in draft RFP at this moment. The broad statement was removed to avoid being boxed in by future circumstances. Intent of the state is not to assign greater risk to CWSPs; however, risk is associated with this type of work.

11. Confidentiality

12. Attachments

- A request was made that Appendix A, B, and C become 1,2, and 3.
- Discussion around the clarity of these attachments and what will apply to CWSPs and what is a general agreement language. DEC will respond to questions and concerns leading up to the selection/ rulemaking process.

Additional Corrections to these notes from CWSP discussion 1/10/20

- Holden indicated that the point on CWSP liability issue was not incorporated in the notes above.
- Holden also mentioned that the funding scenario that he presented – i.e., whether or not the support for BWQC participation and support is adequate, was not represented in the notes above.